

Attorney Docket No. 5849.200-US

PATENT

**IN THE UNITED STATES PATENT AND TRADEMARK OFFICE**

In re Application of: Berka *et al.*

Confirmation No. 6980

Serial No.: 09/533,559

Group Art Unit: 1631

Filed: March 22, 2000

Examiner: J.S. Brusca

For: Methods For Monitoring Multiple Gene Expression

**DECLARATION UNDER 37 C.F.R. § 1.132**

Commissioner for Patents  
Washington, DC 20231

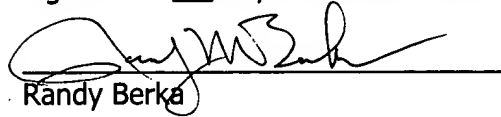
Sir:

I, Randy Berka, do hereby state and declare that

1. I am one of the inventors of the subject matter disclosed and claimed in the above-captioned application.
2. I received a Ph.D. in Microbiology and Immunology from the University of Colorado, Health Science Center, Denver, Colorado, in 1983. I have been employed at Novozymes Biotech, Inc., Davis, California, since 1992 where I am currently a Research Fellow.
3. I have read the Office Action dated May 20, 2004, issued in connection with the above-referenced patent application and understand that claims 103-110 have been rejected under 35 U.S.C. § 101 as not supported by a substantial utility because it is not apparent that the data in the example detailed in my Declaration of September 22, 2003 comprises the probes of SEQ ID NO: 4377-7401 to which the claimed invention is limited. The Office Action indicates that a review of Table 3 of the specification does not reveal a description of probe TREMBL Q96WT5 of the Declaration and, therefore, it cannot be determined whether the data of the Declaration supports a utility of the claimed invention.
4. Probe TREMBL Q96WT5 that I described in my Declaration of September 22, 2003, is identical to SEQ ID NO: 5814.
5. The undersigned declarant declares further that all statements made herein of her own knowledge are true and that all statements made on information and belief are believed to be true and further that these statements are made with the knowledge that willful false

statements and the like so made are punishable by fine or imprisonment, or both, under Section 1001 of Title 18 of the United States Code and that such willful false statements may jeopardize any patent issuing thereon.

Signed this 12 day of October 2004

  
Randy Berka